

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

MICHAEL K. GOLDEN,
Plaintiff,

v.

CIVIL ACTION NO.5:09CV22

COMMISSIONER OF SOCIAL SECURITY,
Defendant.

REPORT AND RECOMMENDATION/OPINION

On February 18, 2009, Plaintiff, *pro se*, filed a Complaint in this matter. On December 11, 2009, Defendant Commissioner of Social Security filed his Answer to the Complaint, along with a copy of the Transcript of the Administrative Proceedings in this matter. Plaintiff's brief in support of his claim was due on or before January 11, 2010. Plaintiff did not timely file his brief. On January 26, 2010, the undersigned United States Magistrate Judge entered an order directing Plaintiff to file and serve his motion and brief in support of his claims on or before February 26, 2010 [Docket Entry 21]. Plaintiff was advised in the order that failure to file a brief in support of his claims by that date would result in the undersigned entering a Report and Recommendation recommending to the District Judge that this case be dismissed for failure to prosecute in accord with the rules. A review of the docket shows that the order was received at Plaintiff's address on or before February 4, 2010.¹

Upon review of the docket as of March 25, 2010, the undersigned finds Plaintiff has not filed a brief or motion in support of his claim.

RECOMMENDATION

For the above reasons, the undersigned respectfully **RECOMMENDS** that the plaintiff's Complaint [Docket Entry 1] be **DISMISSED WITH PREJUDICE** for failure to prosecute and for

¹The signed return receipt itself is undated, but was received back by the clerk's office on February 4, 2010.

failure to comply with the Court's Order of January 26, 2010.

Any party may, within fourteen (14) days after being served with a copy of this Report and Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. A copy of such objections should also be submitted to the Honorable Frederick P. Stamp, United States District Judge. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation. 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk of the Court is directed to send a copy of this Report and Recommendation to Plaintiff, *pro se*, by certified mail, return receipt requested, and to counsel of record.

DATED: March 30, 2010.

John S. Kaul

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE